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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

FLOYD WALLACE,

Plaintiff,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; STATE OF NEVADA;
CHRISTIAN TORRES; JASON SHOEMAKER;
CORY MCCORMICK and DOES 1 to 50,
inclusive,

Defendants.

Case Number:
2:23-cv-00809-APG-NJK

**DEFENDANT LVMPD'S LIMITED
OPPOSITION TO PLAINTIFF'S
MOTION TO EXTEND TIME TO
RESPOND TO MOTION OR IN THE
ALTERNATIVE FOR LEAVE TO FILE
LATE OPPOSITION (ECF NO. 27)**

Defendant Las Vegas Metropolitan Police Department ("LVMPD"), by and through its attorney of record, Craig R. Anderson, Esq. of Marquis Aurbach, hereby files its Limited Opposition to Plaintiff's Motion to Extend Time to Respond to Motion or in the Alternative for Leave to File Late Opposition ("Motion to Extend Time") (ECF No. 27).

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Floyd Wallace ("Wallace") is seeking another extension to respond to LVMPD's Motion to Strike Plaintiff's Complaint ("Motion to Strike") [ECF No. 10]. Wallace claims LVMPD "did not oppose [him] moving this court to stay proceedings until [he] could find counsel." (*See* ECF No. 27 at 1:20-22.) Wallace requests until September 15, 2023, or longer to respond to the Motion to Strike. (*Id.* at 2:3-4.)

- LVMPD does not oppose Wallace's request to extend his deadline to respond to LVMPD's Motion to Strike to September 15, 2023.

- LVMPD has never agreed to stay the proceedings until Wallace could find counsel.
- LVMPD was never contacted and, therefore, never agreed to Wallace's current request.
- LVMPD objects to any further extensions as Wallace cannot establish good cause.

II. LEGAL STANDARD

The Federal Rules of Civil Procedure 6(b) states, in pertinent part:

(b) Extending Time.

(1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

III. LEGAL ARGUMENT

On July 25, 2023, Wallace emailed LVMPD counsel and asked for an extension to respond to LVMPD's Motion to Strike. (*See* a true and correct copy of Emails Between Craig Anderson, Esq. and Wallace, attached hereto as **Exhibit A.**) LVMPD agreed to Wallace's request up to and including August 15, 2023. (*Id.*) On July 26, 2023, Wallace emailed undersigned counsel asking if LVMPD would oppose Wallace's motion to be referred to the pro bono panel and to stay the proceedings. (*See* a true and correct copy of Emails Between Craig Anderson, Esq. and Wallace dated July 26, 2023, attached hereto as **Exhibit B.**) LVMPD's counsel stated no objection would be made to Wallace's pro bono case, and LVMPD would "let the court work it out." LVMPD never agreed to stay the case. (*Id.*) After the email exchange, Wallace unsuccessfully attempted to obtain pro bono counsel. (ECF No. 25.) Wallace has never requested any further extensions to respond to its Motion to Strike.

Wallace claims his current second extension request is necessary because he has yet to obtain counsel. (ECF No. 25.) This is not good cause. Wallace filed his lawsuit on May 24, 2023.

He has had three months to find counsel. During this three-month period, Wallace has actively litigated the case and filed the following pleadings without the assistance of counsel:

- Compliant (ECF No. 1)
- Motion to Extend Time to Respond to LVMPD's Motion to Strike Plaintiff's Complaint. Included in Plaintiff's Motion to Extend Time, was a Memorandum of Points and Authorities arguing LVMPD's Motion to Strike was frivolous. (ECF No. 14.)
- Opposition to Defendant LVMPD's Motion to Dismiss. (ECF No. 15.)
- Reply to Motion to Extend Time to Respond to Motion, a pleading Wallace described as a "work of parody." (ECF No. 19.)
- Motion for Leave to File a Sur Reply in Opposition to LVMPD's Motion to Dismiss. (ECF No. 21.)
- Amended Motion for Rule 11 Sanctions on Defendant LVMPD and their Counsel; Declaration of Floyd Wallace in Support. (ECF No. 22.)
- Unopposed Request for Referral to Pro Bono Panel, Unopposed Motion to Stay Proceedings, and Request for Judicial Notice. (ECF Nos. 23 and 24).

Based on these filings, Wallace has shown he is capable of drafting and filing documents without counsel. However, it remains unclear *who* is filing Wallace's pleadings as he is improperly utilizing the Court's e-filing system without obtaining permission. *See* LR IC 2-1.

IV. CONCLUSION

LVMPD does not object to Wallace's request to extend his deadline to respond to LVMPD's Motion to Strike to September 15, 2023. It does object to any further extensions and objects to staying the case.

Dated this 28th day of August, 2023.

MARQUIS AURBACH

By s/Craig R. Anderson
 Craig R. Anderson, Esq.
 Nevada Bar No. 6882
 10001 Park Run Drive
 Las Vegas, Nevada 89145
 Attorneys for Defendant LVMPD

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **DEFENDANT LVMPD'S
OPPOSITION TO PLAINTIFF'S MOTION TO EXTEND TIME TO RESPOND TO
MOTION OR IN THE ALTERNATIVE FOR LEAVE TO FILE LATE OPPOSITION
(ECF NO. 27)** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the 28th day of August, 2023.

☐ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

☒ I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Floyd Wallace
1613 Leopard Lane
College Station, TX 77840
Pro Per

s/Sherri Mong
an employee of Marquis Aurbach

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
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Exhibit A

From: Craig Anderson <canderson@maclaw.com>
Sent: Tuesday, July 25, 2023 4:21 PM
To: Floyd Wallace civil rights
Cc: Sherri Mong; 14687_464 _Las Vegas Metropolitan Police Department _ RM__ L23_K763762_01CR
Wallace_ Floyd adv_ 4_ E_Mails _EMAIL_ 14687_464
Subject: RE: Where do you stand on a motion for extension of time to respond to your motion? [IWOV-iManage.FID1276626]

Hi Mr. Wallace:

No problem on the 8/15 date. I will file a notice of Non-Opposition to your motion so that the court will grant you the time.

As for the service of the officers, I cannot accept service. The reason is the same I tell Plaintiff in every case – I do not have authority from the officers. When an officer is sued, the district attorney reviews the case and determines whether the Officers is entitled to a paid defense and then assigns the case to an attorney. Prior to being assigned the case, I have no control over the officers.

I apologize for any inconvenience but I have never had the authority to accept service.

Craig

From: Floyd Wallace civil rights <floydwallacecivilrights@gmail.com>
Sent: Tuesday, July 25, 2023 4:15 PM
To: Craig Anderson <canderson@maclaw.com>
Subject: Re: Where do you stand on a motion for extension of time to respond to your motion?

I apologize not seeing your reply and filed the request without indicating your consent. My bad. I put 8/15 in the motion.

On a different note. Are you representing the individual police officers in this case? If so, can you accept service for them?

With Nevada's police confidentiality laws in place, where even their property deeds are deleted from public records, I've been unable to get their addresses.

Floyd Wallace

On Fri, Jul 21, 2023 at 1:23 PM Craig Anderson <canderson@maclaw.com> wrote:

Hi Mr. Wallace:

Thank you for the email. I am agreeable to extending the time for you to respond to the Motion to Strike and Motion to Dismiss. You can do it as an unopposed motion or you can draft a stipulation and order.

How long do you want?

Best,

Craig

From: Floyd Wallace civil rights <floydwallacecivilrights@gmail.com>

Sent: Friday, July 21, 2023 1:04 PM

To: Craig Anderson <canderson@maclaw.com>

Subject: Where do you stand on a motion for extension of time to respond to your motion?

Dear Craig Anderson:

Will you oppose a motion for an extension of time to respond to your motion to strike my complaint? In order to allow you the full 21 days to withdraw it before I file for sanctions.

Floyd Wallace

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Exhibit B

From: Floyd Wallace civil rights <floydwallacecivilrights@gmail.com>
Sent: Thursday, July 27, 2023 10:29 AM
To: Craig Anderson; Sherri Mong
Subject: Re: Safe Harbor Notice of Motion for Sanctions [IWOV-iManage.FID1276626]

Mr. Anderson:

I understand your pro bono stance.

Since I haven't received your DVD yet and I don't have a DVD player, any way you or an assistant can send me a digital copy?

It doesn't look like you efiled that DVD. But I'm still unclear on whether you're actually alleging that Mr. DeCastro couriering my documents is the illegal practice of law.

Floyd Wallace

On Wed, Jul 26, 2023 at 3:21 PM Craig Anderson <canderson@maclaw.com> wrote:

Hi Mr. Wallace;

First, I have no problem dealing with you. You are always welcome to call or email me.

Second, thank you for the motion. I am out of town the next two days, but will review it early next week.

Third, if you file a motion for pro bono representation I will not oppose it or join it. In other words I will do nothing and let the court work it out.

Does that make sense?

Craig

From: Floyd Wallace civil rights <floydwallacecivilrights@gmail.com>
Sent: Wednesday, July 26, 2023 2:36 PM
To: Craig Anderson <canderson@maclaw.com>
Subject: Re: Safe Harbor Notice of Motion for Sanctions [IWOV-iManage.FID1276626]

Dear Mr. Anderson:

Mr. DeCastro did help me, but not with anything that would be considered the illegal practice of law and you have admitted to not having any evidence of that. There is no evidence because it didn't happen and no reasonable person would even go there, let alone assert it as true without evidence.

Mr. DeCastro didn't even send me a copy of his complaint. I had to download it.

Here is the motion for sanctions.

Hopefully you won't have to deal with me much longer. Would you oppose a motion that I be referred to the pro bono panel and to stay proceedings until we hear back?

Floyd Wallace

On Wed, Jul 26, 2023 at 1:23 PM Craig Anderson <canderson@maclaw.com> wrote:

Hi Mr. Wallace:

I assure you I am not playing word games – sometimes emails are hard to understand on both ends. So, I apologize for any confusion.

My evidence is simple – when you and Mr. DeCastro went back to Metro the following day. Mr. DeCastro told the officers he was going to assist you in your lawsuit. I believe both you and Mr. DeCastro were videoing this encounter as well so you know he said it.

As for the courier issue, it is still unclear what you are getting at. I don't send people to court to file papers—we serve them electronically or via mail.

I am in a settlement conference right now, but I will file my non-opposition to your request to extend today. As for my request, I just read your Opposition and I will need not extra time to respond, but I do appreciate your willingness to extend my time.

Thanks for reaching out,

Craig

From: Floyd Wallace civil rights <floydwallacecivilrights@gmail.com>

Sent: Wednesday, July 26, 2023 1:16 PM

To: Craig Anderson <canderson@maclaw.com>

Subject: Re: Safe Harbor Notice of Motion for Sanctions [IWOV-iManage.FID1276626]

Dear Mr. Anderson:

I watched the videos at the timestamps you say. I don't know how you're getting your allegations from that. I'm going to go ahead and say that you failed to respond with evidence demonstrating the claims that you asserted in your filing.

I think you're playing word games. You said that Mr. DeCastro needs to be an attorney to courier my papers. You sending people to the court to file your papers is you using a courtier, even if they're internal to your organization, and I have reason to believe that you have done that.

I would have no problem with a ruling that Chille can't illegally practice law, except that it has nothing to do with this case and I shouldn't have to waste my time responding to it. Nor have you provided any evidence that it is happening, making your motion frivolous and abusive. It's certainly meant to harass and embarrass both Mr. DeCastro and myself. You can't just throw out wild accusations based on YouTube videos that don't even say that, and which contain hearsay, without investigating those wild accusations. I mean you can, but not in a motion to the court. You have violated Rule 11.

If you file that non-opposition to my motion for extension of time, I won't oppose your motion to extend time.

Floyd Wallace

On Wed, Jul 26, 2023 at 10:49 AM Craig Anderson <canderson@maclaw.com> wrote:

Hi Floyd:

Hope you are well. I will try to respond to each question:

1. The evidence I have is several videos of Mr. DeCastro saying he is assisting you.
2. If he is not helping you and then you should have no problem with the Court granting my motion.
3. I apologize but I don't understand your question regarding the court courier issue. When have I used a court courier and who says they have to be a licensed attorney? Please elaborate.

On an unrelated note, I just saw you filed your Opposition to My Motion to Dismiss. Would you be agreeable to giving me a one-week extension to respond (from Aug 2 to **Aug 9**)?

Thanks and I look forward to your response.

Craig

From: Floyd Wallace civil rights <floydwallacecivilrights@gmail.com>
Sent: Wednesday, July 26, 2023 10:00 AM
To: Craig Anderson <canderson@maclaw.com>
Subject: Re: Safe Harbor Notice of Motion for Sanctions

Dear Craig Anderson:

I'm typing up the motion for sanctions now. I was just wondering if you had any evidence demonstrating that the claims you assert in your motion to strike are well-grounded in fact showing that you made a reasonable inquiry?

I ask because in Holgate v. Baldwin, Baldwin's motion says that they started by asking the opposing counsel for this evidence.

Since it's not true or even reasonable based on my obvious decision to plagiarize his complaint, your wild accusation seems meant to waste my time and to harass and embarrass me and Chille.

I also have a reasonable belief that you have used a court courier that is not a licensed attorney. Do you deny that?

Floyd Wallace

On Tue, Jul 18, 2023 at 9:10 PM Floyd Wallace civil rights <floydwallacecivilrights@gmail.com> wrote:

Dear Craig Anderson:

I'll type up the motion in a few days, but I wanted to get the safe harbor timer started.

I'll be filing a motion for Rule 11 sanctions if you don't withdraw your frivolous motion RE 2:23-cv-00809 within 21 days.

Floyd Wallace

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